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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,721	08/15/2001	Max Douglas Oyler	9D-DW-19866	1672
7590	03/02/2006		EXAMINER	
John S. Beulick Armstrong Teasdale LLP One Metropolitan Sq., Suite 2600 St. Louis, MO 63102			HANSEN, JAMES ORVILLE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/930,721	OYLER ET AL.
	Examiner	Art Unit
	James O. Hansen	3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 December 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-5,7,8,10-14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 16-21 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-5,7,8 and 10-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 January 2002 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 14 & 16-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on December 21, 2005.
2. Applicant's election with traverse of the Group I invention in the reply is acknowledged. The traversal is on the ground(s) that the inventions are clearly related, a thorough search and examination of one group would be relevant to the examination of the other group, and claims from both groups have been examined numerous times. This is not found persuasive because the inventions have been shown as being distinct since the Group II invention as claimed does not require the particulars of the Group I invention as claimed for patentability, and the Group I invention has utility as demonstrated in the requirement. Additionally, the inventions have acquired a separate status in the art as represented by their different classifications. As to the requirement being imposed after previous office actions on the merits. It is noted that requirements for restriction may be made at the discretion of the primary examiner. The requirement is still deemed proper and is therefore made FINAL.

***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "escutcheon" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It is noted that on page 6, applicant discloses that the escutcheon of the

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conventional dishwasher is eliminated by mounting a control panel directly to the outer surface via a control mounting surface.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1, 3-5 & 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1, the phrase "such that said outer surface extends between said control mounting surface and said top edge of said

frame" may be deemed unclear and confusing as presently worded since it appears that only *a portion* of the outer surface extends between the mounting surface and the top edge of the frame, and not the outer surface in it's entirety. In Claim 3, the phrase "said frame comprises a control panel cutout" is deemed to be misdescriptive of the embodiments since the position is taken that the control panel cutout resides within the outer surface as previously set forth. Appropriate correction /clarification is required depending upon applicant's intent. Consequently, the remaining claims are rejected because they are dependent upon an indefinite claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, 8, 10 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Roberts [U.S. Des. 421,162]. As to claim 1, Roberts (figures 1-6) teaches of an outer door panel (fig. 1) for an appliance door assembly, the outer door panel having a longitudinal axis (top to bottom) and comprising: a frame (viewed as edges of the outer door panel as shown in fig. 3) comprising opposite lateral sides, a top edge, and a bottom edge; an outer surface (curved or bowed surface as shown in figs. 1-2 for example) extending from the frame, the outer surface outwardly curved between the lateral sides (clearly depicted), the outwardly curved outer surface extending from the top to the bottom edges (clearly depicted); and a recessed "control mounting surface" (shown as the top middle recessed surface – fig. 3) extending inwardly from the outer surface between the lateral sides as readily apparent to the examiner, the recessed

control mounting surface disposed at an angle (viewed as being inclined) with respect to the longitudinal axis as readily apparent to the examiner, the recessed control mounting surface positioned a distance from the top edge (fig. 3) such that a portion of the outer surface extends between the control mounting surface and the top edge of the frame as clearly depicted. As to claim 3, the appliance door assembly is a dishwasher door assembly (note description), wherein the outer surface within the frame comprises a control panel cutout (note fig. 3) as best understood by the examiner - see 112(2) rejection, and the control mounting surface comprising an "escutcheon" received within the cutout in as much as applicant disclosed the claimed "escutcheon" - see drawing objection. As to claims 8, 10 & 11, Roberts teaches applicant's inventive structure substantially as claimed including the frame and outer surface being formed as a single piece, i.e., forming a unitary outer door panel, as readily apparent to the examiner, and the mounting surface being surrounded by the outer surface.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Craven [U.S. Patent No. 5,255,968]. Craven (figures 1-5) teaches of an outer door panel (fig. 1) for an appliance door assembly, the outer door panel having a longitudinal axis (top to bottom) and comprising: a frame (viewed as the top and bottom edge members and 28a, and 28b of the outer door panel as shown in figs. 1 & 2 for example) comprising opposite lateral sides, a top edge, and a bottom edge; an outer surface (curved or bowed surface 16) extending from the frame, the outer surface outwardly curved between the lateral sides (clearly depicted), the outwardly curved outer surface extending from the top to the bottom edges (clearly depicted); and a recessed "control mounting surface" (viewed as the bottom surface within opening 26 as depicted in fig.

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1) extending inwardly from the outer surface between the lateral sides as readily apparent to the examiner, the recessed control mounting surface disposed at an angle (viewed as being perpendicular) with respect to the longitudinal axis as readily apparent to the examiner, the recessed control mounting surface positioned a distance from the top edge (fig. 1) such that a portion of the outer surface extends between the control mounting surface and the top edge of the frame as clearly depicted.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4, 5, 12 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts. As noted above, Roberts teaches applicant's inventive claimed structure; but does not disclose the type of materials used in manufacturing components of the door panel. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the type of materials utilized in manufacturing the door panel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious personal preference. Additionally, since the type of material utilized does not exhibit any new or unobvious functional relationship to the structure itself, it is viewed that the material will not distinguish the invention from the prior art in terms of patentability.

***Response to Arguments***

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Roberts D438,677 describes a dishwasher curved outer door panel. JP9-313427 describes a dishwasher door panel with inclined control surface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen  
Primary Examiner  
Art Unit 3637

JOH  
February 23, 2006